

GENERAL HAMILTON CARRIES DIS-  
PATCHES TO KITCHENER.

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*More Vigorous Operations to Be In-  
augurated — Court Decision  
Stirs Up England.*

LONDON, November 11.—According to the Daily News, Major General Ian Hamilton, who sailed Saturday for South Africa to act as Lord Kitchener's chief of staff, takes a plan prepared in London for a more vigorous campaign, with a view of

"General Hamilton's appointment," says the Daily News, "is part of a plan arranged after the king's return from the continent about six weeks ago. Unless Lord Kitchener should decline to be complainant, the new scheme is likely to develop about the

In a letter, dated October 23, the Cape Town correspondent of the Daily Mail says:

"Lord Kitchener and Sir John Gordon Sprigg, the Cape premier, have arranged a scheme for the expulsion of the invaders from Cape Colony. A joint commission of

"It is understood that this provides for the colony taking a large share in the future of the campaign and contributing largely toward its cost. Apparently a levy or *loyalists en masse* is the idea involved." A London dispatch to the New York Herald says: The decision of the judicial com-

mittee in the case of Marais has fallen like a thunderbolt upon the constitutional lawyers. The reasons for this startling judgment have not yet been given, but if they bear any resemblance to the declarations of the lord chancellor during the argument they will destroy, so far as the jurisdiction and authority of the court extend, those primary safeguards for the liberty of the subject which are supposed to

have been finally secured by the habeas corpus act and the bill of rights. Marais is a British subject confined in Cape Colony without trial. No definite charge has ever been made against him, though he was vaguely told he had infringed a paragraph of military regulations which forbids intercourse with the enemy. On September 2 application was made to the supreme court of the colony for his

release on the ground, which was not disputed, that he was a civilian and therefore amenable only to a civil tribunal. But the court, whose distinguished chief justice is in England, refused to interfere with the actions of the soldiers in the district under martial law.

to Appeal, as the case was exceptional and peculiar. If the case had involved large sums of money an appeal to the king in council would have been the absolute right of the defeated litigant, but as Marais was charged with crime, though with what crime no one seems to know, he cannot appeal without leave against liability to death or perpetual imprisonment.

his behalf, cite a whole chain of legal authorities for the proposition that martial law does not apply to civilians and that they cannot, in the absence of express statutory enactment, be tried by court-martial while the ordinary courts are open. The lord chancellor interrupted him at every point and laid down the general principle that the courts are not open if access to them would endanger the interests

The immense importance of this decision is that it does not depend upon the special circumstances of South Africa at the present time, but it is of general ap-

Education. It practically subordinates the civil to the military power when martial law has been proclaimed. The decisions of the judicial committee are not, indeed, technically binding within the limits of the United Kingdom, but they are law throughout the rest of the British empire and are followed obediently by every colonial court. It is a singular rule of this strange tribunal—singular, at least, in this country—

It is credibly stated that the petition was rejected by a majority of one.

the approval which the government has given, through Joseph Chamberlain, to the proclamation of martial law in Cape Colony. It was therefore thought he would have done better not to stir, but he not merely sat; he showed from the first he had made up his mind. It now appears that if he had not been there the decision might have been different.

proceedings, for eminent lawyers have not hesitated to describe the lord chancellor's doctrines as a revolution.

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**TO BE HEARD DECEMBER 2.**

**Argument in the Habeas Corpus Proceedings of the Gaynors.**

The brief of the Department of Justice in

The habeas corpus proceeding of Benjamin D. Greene, John F. Gaynor, William T. Gaynor and Edward H. Gaynor, accused of conspiracy with Capt. Oberlin M. Carter to defraud the government, has been filed in the United States Supreme Court, in which tribunal the case is pending. The defendants instituted the proceeding with the

hope of avoiding being sent to Georgia for trial. They raised many points on which it was alleged that the federal court of New York had erred. All these are discussed at unusual length by the government brief, "on account," the brief says, "of their bearing upon the future progress of this case, as well as the great public importance attached to the settlement of questions of practice which by erroneous

After the technical discussion of the points at issue the brief concludes as follows:

"The defendants do not lose any substantial right by a refusal of the court, by habeas corpus, to interfere before trial. The same august tribunal, the Supreme Court of the United States, will be the final arbiter."

ter on all questions, whether they go up from New York or Georgia. The same public policy which encourages freedom of intercourse and interchange of traffic and close commercial relations between the states, and gives the citizens of one state equal rights in carrying on business and contracts in another state, demands that perpetrators of frauds committed in a state who flee for refuge to other states should be

"The Supreme Court has said that Congress never intended by these acts to interfere with the ordinary proceedings in the courts in advance of final judgment, and

The brief is signed by Marion Erwin, a special assistant of the Attorney General, and Solicitor General John K. Richards. The United States Supreme Court today advanced the case on the docket and announced that it would be heard on the 2d of December next.

Prof. Henry M. Howe of the school of mines of Columbia University, has been elected an honorary member of the Russian Technical Society.